

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	File No.: EB-FIELDWR-16-00022797 ¹
Juan Carlos Uribe)	NAL/Acct. No.: 201832030001
Van Nuys, California)	FRN: 0024463671
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: November 20, 2017

Released: November 21, 2017

By the Regional Director, Region Three, Enforcement Bureau:

I. INTRODUCTION

1. We propose a penalty of \$15,000 against Mr. Juan Carlos Uribe for operating an unlicensed radio station on 101.5 MHz in Van Nuys, California. Mr. Uribe was warned by the Commission that the operation of an unlicensed station was illegal and that continued operation could result in further enforcement action. Nonetheless, Mr. Uribe apparently disregarded the warning and continued to broadcast on an unauthorized station. Accordingly, the Commission now finds him apparently liable for violation of Section 301 of the Commissions Act, and proposes a penalty of \$15,000. As the Commission has stated many times before, enforcement action in this area is critical because unlicensed radio stations undermine the Commission's efforts to manage radio spectrum and can cause interference to licensed communications, including authorized broadcasts and public safety transmissions. Moreover, unlicensed radio stations do not broadcast Emergency Alert Service (EAS) messages, and thus create a public safety hazard for their listeners.

II. BACKGROUND

2. On October 4, 2016, in response to a complaint, an agent from the Commission's Los Angeles Field Office (Los Angeles Office) used direction finding techniques to trace the source of an unauthorized radio transmission operating on 101.5 MHz to a commercial building located at 7335 Van Nuys Blvd. in Van Nuys, California. The agent took field strength measurements of the station's signal and determined that the transmissions exceeded the limits for operation under Part 15 of the Commission's rules and therefore required a license.² The agent then consulted Commission records and confirmed that the Commission had not authorized an FM broadcast station to operate on 101.5 MHz at or near the building. The agent also inspected the property, reviewed Mr. Uribe's identification and made notes of his residential address, and spoke with Mr. Uribe. The agent hand-delivered a Notice of Unlicensed Operation (NOUO) to Mr. Uribe while he was on the property, which Mr. Uribe signed.³ In

¹ The investigation began under File No. EB-FIELDWR-16-00022674 and was subsequently assigned File No. EB-FIELDWR-16-00022797. Any future correspondence with the Commission concerning this matter should reflect the new case number.

² Section 15.239 of the Commission's rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 micro volts per meter ("µVm") at three meters. 47 CFR § 15.239. Measurements showed that the field strength of the station's signal exceeded the permissible level for a non-licensed Part 15 transmitter.

³ *JC Uribe*, Notice of Unlicensed Operation, October 4, 2016 (on file in EBATS EB-FIELDWR-16-00022674).

addition, the agent sent a NOUO dated October 21, 2016,⁴ by United Parcel Service (UPS) to Mr. Uribe at his residential address in Burbank. On November 1, 2016, Mr. Uribe signed the UPS delivery receipt, indicating that he received the October 21 NOUO.⁵

3. In November and December 2016, the complainant who reported the unauthorized station at 101.5 MHz contacted the Los Angeles Office again to report that a pirate station was operating on 95.1 MHz from the same location in Van Nuys, California, with what appeared to be an identical format to the station that previously operated on 101.5 MHz. On December 17, 2016, an agent from the Los Angeles Office investigated and found that Mr. Uribe was operating a radio station on 95.1 MHz from the same location that the agent inspected on October 4, 2016. The agent took field strength measurements and determined that the transmissions on 95.1 MHz exceeded the limits for operation under Part 15 of the Commission's Rules and therefore required a license. The agent consulted the Commission's records and confirmed that the Commission had not authorized an FM broadcast station to operate on 95.1 MHz at or near the building. The agent issued a second hand-delivered NOUO to Mr. Uribe, which he signed.⁶ Also on December 17, 2016, in the presence of the agent, Mr. Uribe turned off the station.⁷ The agent also sent a NOUO dated December 21, 2016, to Mr. Uribe at his home and business addresses. UPS confirmed delivery of the NOUO.⁸

III. DISCUSSION

4. We find that Mr. Uribe apparently willfully violated Section 301 of the Communications Act of 1934, as amended (Act). Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States without a license granted by the Commission.⁹ As noted above, Mr. Uribe operated on 101.5 MHz without a license and, after receiving written warning that operation of a radio station without a license was illegal, began operating an unauthorized station on a different frequency, 95.1 MHz. Thus, Mr. Uribe continued his operation of an unlicensed radio station even though he was fully aware that doing so violated Section 301 of the Act.

5. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission."¹⁰ Here, Section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against Mr. Uribe of up to \$19,246 for each violation or each day of a continuing violation, up to a statutory maximum of \$144,344 for a single act or failure to act.¹¹ In exercising our forfeiture authority, we must consider the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and

⁴ *JC Uribe*, Notice of Unlicensed Operation, October 21, 2016 (on file in EBATS EB-FIELDWR-16-00022797).

⁵ The agent also sent a copy of this NOUO to Mr. Uribe through the U.S. Postal Service (USPS). That copy was returned to the Commission, stamped "unable to forward."

⁶ *JC Uribe*, Notice of Unlicensed Operation, December 17, 2016 (on file in EBATS EB-FIELDWR-16-00022797).

⁷ Before leaving the area, the agent used direction finding techniques to confirm the station was not in operation. Since December 17, 2016, we have received no further complaints that Mr. Uribe is back on the air.

⁸ UPS provided a receipt indicating that the NOUO was delivered (on file in EBATS EB-FIELDWR-16-00022797). The agent also sent a copy of the December 21 NOUO to Mr. Uribe by USPS to his home and businesses addresses. The USPS also returned both copies of the NOUO to the Commission, stamped "unable to forward."

⁹ 47 U.S.C. § 301.

¹⁰ 47 U.S.C. § 503(b).

¹¹ See 47 U.S.C. § 503(b)(2)(D); 47 CFR §§ 1.80(b)(7), (9); see also *Jay Peralta, Corona, New York*, Notice of Apparent Liability for Forfeiture, 32 FCC 3246, 3250 n.30 (2017) (discussing inflation adjustments to the forfeitures specified in Section 503(b)(2)(D)).

such other matters as justice may require.”¹² In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.¹³ Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.¹⁴

6. Section 1.80(b) of the Rules sets a base forfeiture of \$10,000 for operating an unauthorized radio station for each violation or each day of a continuing violation.¹⁵ We propose a base forfeiture of \$10,000 for Mr. Uribe’s violation of Section 301 of the Act by operating an unauthorized station. We have discretion, however, to depart from these guidelines, taking into account the particular facts of each individual case.¹⁶ Given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that an upward adjustment is warranted. Mr. Uribe received repeated written warnings that operation of an unlicensed radio station was illegal and that continued operation could result in further enforcement action,¹⁷ yet Mr. Uribe disregarded those warnings and continued to operate his unlicensed station. We therefore propose an upward adjustment of \$5,000 based on the egregious nature of Mr. Uribe’s apparent violations of Section 301 of the Act.¹⁸ After applying the *Forfeiture Policy Statement*, Section 1.80 of the Commission’s rules, and the statutory factors, we propose a total forfeiture of \$15,000, for which Mr. Uribe is apparently liable.

IV. CONCLUSION

7. We have determined that Mr. Uribe apparently willfully violated Section 301 of the Act. As such, Mr. Uribe is apparently liable for a forfeiture of \$15,000.

V. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act¹⁹ and Sections 1.80 of the Commission’s rules,²⁰ Juan Carlos Uribe is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of Fifteen Thousand Dollars (\$15,000) for willful violations of Section 301 of the Act.²¹

9. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission’s

¹² 47 U.S.C. § 503(b)(2)(E).

¹³ 47 CFR § 1.80(b)(8), Note to paragraph (b)(8).

¹⁴ *Id.*

¹⁵ 47 CFR § 1.80(b).

¹⁶ *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17098–99, para. 22 (1997) (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

¹⁷ *See supra*, paras. 2-3 and nn. 3-5.

¹⁸ *See Robert Brown*, Memorandum Opinion and Order, 27 FCC Rcd 6975 (EB 2012), *aff’g*, Forfeiture Order, 26 FCC Rcd 6854 (EB 2011), *aff’g*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13740 (EB 2010) (upwardly adjusted proposed forfeiture by \$5,000 because violator operated an unlicensed radio station after receiving a written warning that such action violated the Act and Rules); *Lloyd Morris*, Memorandum Opinion and Order, 27 FCC Rcd 6979 (EB 2012), *aff’g*, Forfeiture Order, 26 FCC Rcd 6856 (EB 2011), *aff’g*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 13736 (EB 2010) (same).

¹⁹ 47 U.S.C. § 503(b).

²⁰ 47 CFR § 1.80.

²¹ 47 U.S.C. § 301.

rules,²² within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Juan Carlos Uribe **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 13 below.

10. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Juan Carlos Uribe shall send electronic notification of payment to Janet Moran at Janet.Moran@fcc.gov and WR-Response@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²³ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

11. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.²⁴ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

12. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Commission’s rules.²⁵ The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, ATTN: Enforcement Bureau, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Janet Moran at Janet.Moran@fcc.gov, and to WR-Response@fcc.gov.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or

²² 47 CFR § 1.80.

²³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁴ See 47 CFR § 1.1914.

²⁵ 47 CFR §§ 1.16, 1.80(f)(3).

(3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

14. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Juan Carlos Uribe at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Lark Hadley
Regional Director
Region Three
Enforcement Bureau